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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,341	04/20/2001	Takahiro Hayashi	Q64162	1065

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SUGHRUE, MION, ZINN, MCPEAK & SEAS
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EXAMINER

RUHL, DENNIS WILLIAM

ART UNIT PAPER NUMBER

3629

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/838,341

Applicant(s)

HAYASHI ET AL.

Examiner

Dennis Ruhl

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3 (8/21/02).
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 1, the language "an order receiving order for receiving an order" is indefinite. What exactly is being claimed here? Is this simply an order (request) for transportation? Is this supposed to be the order receiving server?

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6,9-23,26-28, are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (6430496).

For claims 1-5,9,12,13,16-18,20,26, Smith discloses a transportation method and system as claimed. Smith discloses a mandatory terminal (AVL system 18), vehicles 20, order server 10, ordering terminal 14, and communication line 15 (also see column 4, line 65 to column 5, line 7. Smith discloses periodic transmission of vehicle location so that the closest vehicle to a service request can be quickly dispatched. The claimed "only in a desired period" is considered to be the working hours of the vehicle. It does not need to transmit information when out of service. The current location of the vehicles 20

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is transmitted to the server and when a service request is transmitted to the server (with order information such as time, date, pickup/dropoff location, etc.), the closest vehicle to the request location is identified and dispatched to the pickup location to deliver the transportation service. Order information is transmitted to the dispatched vehicle so the driver knows where to go and when. See the entire disclosure of Smith but applicant's attention is especially directed to the following portions of the disclosure: column 11, lines 10-11; column 8, lines 57-61; column 9, lines 36-38; column 4, lines 61-64; column 13, lines 41-48; column 16, lines 38-65; column 17, lines 30- column 18, line 16; column 25, lines 48-64.

For claims 6,14,15,19,21-23, see column 17, lines 30-48 and column 21, lines 9-29.

For claims 10,27, a vehicle can be used to transport anything and reciting the intended use of the vehicle as being "mainly for" carrying a customer, etc. still just recites a vehicle. A driver of the vehicle is a passenger so every human controlled vehicle has a passenger. Smith anticipates these claims.

For claims 11,28, the system of Smith is capable of delivering goods/people from a store with round the clock operation. Reciting the type of store to be serviced does not distinguish over Smith and is not considered to even be part of applicant's invention. The store or location being serviced is not part of applicant's invention, just the intended use of the invention. The system of Smith could very easily be used by someone to go to Kinkos copies (24 hour

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store) or a grocery store to shop such as 7-11 (also a 24 hour store). Smith is fully capable of what is claimed and because of this anticipates the claims.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 7,8,24,25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (6430496).

For claims 7,8,24,25, Smith discloses that the customer of the transportation service can be notified of completion of the transportation service via an electronic invoice that does not require postage. Smith does not specifically state that electronic email is used. Stephens discloses a

transportation method and system where the customer of a transportation service request is notified of the completion of the request by using electronic email. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use electronic email as the medium to transmit the electronic invoice of Smith to the customer as is disclosed by Stephens.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 703-308-2262. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DENNIS RUHL
PRIMARY EXAMINER